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In connection with the Internet Over Cable Declaratory Ruling, GN Docket No. 00-185, the following comments are filed. The comments are numbered according to the paragraph numbers in the Notice of Proposed Rulemaking FCC 02-77. The file format is Word for Windows 6.0.

87. We note that we are unaware of any allegation that a cable operator has denied click through access to other ISP's. ... Is the threat that subscriber access to Internet content or services could be blocked ... sufficient to justify regulatory intervention at this time?

In a Petition for a Declaratory Order signed 9 June 1997 I provided testimony of a denial of service by the cable company in this area. The petition was the subject of notice da97-2002 , and comments and reply comments have been received on this issue. The testimony shows that at least one subscriber has been blocked , and the petition alleged "the facts of this controversy are likely to recur many times and in many places"

88. Other possible means of effecting a multiple ISP access regime include adopting a general rule of reasonableness for cable operators in their dealings with ISPs seeking access to their cable systems and/or requiring cable operators to make high-speed transmission available to other ISPs at market based prices.. We could then rely on our complaint processes to resolve individual disputes about these standards.

My reply comment stated "A rule requiring [allowance of redistribution and]resale of Internet access is proposed. Based on 47 USC 151 and 201, it does not require information services to file tariffs, and thereby continues to save the accounting costs of regulatory compliance. It also makes no change in the practices required of telecommunications carriers, except to clarify that those practices apply to Internet access."

90. ...would a multiple ISP access requirement...hinder the development of a market that is still evolving? ... Is there a way to implement multiple access now that would avoid any such harmful interference in the future and that would achieve the goals set forth in paragraphs 4-6 above?

Allowing redistribution promotes "deployment of advanced telecomunjnications capability" to the end user, and "removes barriers to infrastructure investment" in the Internet appliances that can be forseen beyond the end of the cables.(goal 4); achieves a "minimal regulatory cost" because there are no costs, and the increase cable usage may actually improve business (goal 5) ; and is consistent with at least part of the common-carrier obligations of the plain old telephone system, thereby achieving a degree of "consistency across multiple platforms" (goal 6).

Indeed, resale requirements have been imposed before in the mobile radio area by the Commission specifically because they confer "important public benefits in markets that are less than fully competitive."

If resale is required for mobile radio [FCC 96-263, para 10], why should it not for the cable modems? (goal 6)

In addition the policy seeks to preserve a "vibrant and competitive free market" (goal 4) whereas the present Internet market for end users is static and monopolistic.

95. We request the comenters to focus on how such forbearance [from the requirements of Title II} and or regulation would further enhance the commissions goals stated in paragraphs 4-6 above.

As argued in the reply comment, resale rules derive from 47 USC 151 , 201, and 202 and do not require the common carrier tariff requirements of section 203. The Commission may exercise forbearance in implementing a telecommunications policy and still impose resale rules in furtherance of goals 4-6..

110. Commenters have focused on whether universal service contribution obligations should attach to what they characterize as the underlying telecommunications component of cable service.

My reply comment noted "One method of defining Internet access is to use the services listed as statutory exemptions to electronic publishing in the 1996 Act. The Universal Service Order [FCC 97-57, para 444] recommended common carrier services, gateway services, and e-mail as aspects of Internet access... these categories were taken from the statutory exceptions to electronic publishing. ... It is requested that the following activities listed in 47 USC 274(h)(2)(B, C, D, E, I, M, and N) should constitute Internet access... (B) transmission of information as a common carrier, (C) .. as a gateway to an information service...(D) voice storage...(E) data processing services.... (I) directory assistance.. (M) any other [bidirectional end-to-end] network service .. (N) upgrades.

79. We seek comment on any explicit statutory provisions, including expression of congressional goals, that would be furthered by the Commission's exercise of ancillary jurisdiction over cable modem service,

In sum, redistribution requirements would satisfy all three US policy goals:
47 USC 230(b)(1) to promote development of the Internet; (b)(2) to preserve a vibrant and free market; and especially (b)(3) to encourage the development of technologies which maximize user control